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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,294	10/30/2003	Thomas Anschutz	BS02382	2551
38516 7590 04/15/2008 SCOTT P. ZIMMERMAN, PLLC PO BOX 3822 CARY, NC 27519				
EXAMINER				
LAI, MICHAEL C				
ART UNIT		PAPER NUMBER		
2157				
MAIL DATE		DELIVERY MODE		
04/15/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/699,294

## Applicant(s)

ANSCHUTZ ET AL.

## Examiner

MICHAEL C. LAI

## Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 10 dec 2003
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This office action is responsive to communication filed on 11/02/2004.

Claims 1-33 have been examined.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-10, and 16-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 recites the limitation of "a connection module...a management module..." Claim 16 recites the limitation of "an input module... a control module...an output module..." These are described in paragraph 0049 of original specification as "The various techniques described herein may be implemented in hardware or software..." As such each of the claimed pieces of claims 1 and 16 are just software. As such, the claims cover embodiments directed to software, per se. Claims 2-9 depend on claim 1. Claims 17-21 depend on claim 16. The claims are being rejected as non-statutory as directed to a form of software rather than a patent-eligible machine, manufacture, process or composition of matter.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Edson (US 6,526,581 B1, hereinafter Edson).

Regarding claim 1, Edson discloses a system providing network topology and bandwidth management comprising:

a connection module, said connection module capable of accepting inputs and providing outputs to various types of voice and non-voice data networks [FIG.4 and col. 13, lines 24-63, RJ11 connectors and HPNA interface 63]; and

a management module, said management module cooperating with the connection module to accept data from said voice and non-voice data networks for routing [col. 3 line 46 through col. 5 line 6, the gateway], wherein said routing comprises any of frequency shifting the data and/or time shifting the data such that the data may be communicated across the voice and non-voice networks, the management module performing at least one multiplexing operation to route multi-frequency signals to appropriate termination points cooperating with the management module which are selected based on the frequency of at least one component signal of the multi-frequency signals [col. 13, lines 46-50, "utilizing a multiplexing/splitting technique through the ADSL modem 115". Note that according to Microsoft Computer Dictionary, Fifth Edition, "To maintain the integrity of each signal on the channel, multiplexing

can separate the signals by time, space, or frequency” It is inherent for multiplexing to do frequency, or time, or space shifting.].

Regarding claim 2, Edson further discloses wherein the management module comprises a plurality of network adapters for use to connect to various voice and non-voice data networks [col. 3, lines 23-25].

Regarding claim 3, Edson further discloses a control circuit, the control circuit executing one or more instructions for use to determine an origination of the data and a destination of the data [col. 3, lines 49-53, “The processor of the gateway executes a software program to perform routing control...”].

Regarding claim 4, Edson further discloses wherein the control circuit selects an appropriate network adapter based on the origination and destination of the data [col. 10, lines 59-65, “packet switch routing”].

Regarding claim 5, Edson further discloses wherein the network adapters comprise any of: HPNA adapter, coaxial network adapter, Ethernet network adapter, wireless network adapter, POTS adapters, and power line network adapters [col. 3, lines 23-25, adapters; col. 7 line 58 through col. 8 line 2, HPNA].

Regarding claim 6, Edson further discloses wherein the data is processed according to a type of adapter [col. 3, lines 23-25, “Adapters or interface cards supporting the physical and software interfaces can provide in-home network access for virtually any type of electronic device.”].

Regarding claim 7, Edson further discloses a computing application, the computing application having a user interface for use in configuring the connection and management modules [col. 11, lines 10-19, "The operating system and communication application are designed to automatically detect a new device and interface when connected to the network 11 and to interact with such a new device interface to configure the gateway and the new interface to enable communications through the system 11"].

Regarding claim 8, Edson further discloses wherein the voice data networks comprise the public switched telephone network [col. 2, lines 58-60, PSTN; col. 4, lines 20-35, POTS].

Regarding claim 9, Edson further discloses wherein the non-voice data networks comprise any of the Internet, a LAN, a WAN, and a peer-to-peer network [col. 5, lines 47-50, WAN].

Regarding claim 10, Edson further discloses wherein the management module is capable of processing various data communication protocols comprising any of IP, Ethernet and ATM [col. 10, lines 50-55, Ethernet].

Regarding claim 11, Edson discloses a method for the management of network topology and bandwidth comprising the steps of:

determining the source of data for communication to a termination point, the termination point having a predetermined operational signal frequency [col. 6, lines 10-26, ADSL example];

based on the termination of data and the predetermined operational signal frequency, selecting the appropriate network topology adapter, wherein the network topology adapter comprises any of HPNA adapter, coaxial network adapter, Ethernet network adapter, wireless network adapter, POTS adapters, and power line network adapters [col. 2, lines 48-63, "predetermined frequencies"; col. 4, lines 20-35, "selective connections"; and communicating the data to the termination point [col. 4, lines 36-65, data communications].

Regarding claim 12, Edson further discloses routing the data using addressing information [col. 11, lines 41-65].

Regarding claim 13, Edson further discloses configuring the adapters, wherein a computing application capable of configuring the adapters is used [col. 11, lines 14-19, configuration routines].

Regarding claim 14, Edson further discloses executing at least one instruction set for use in selecting the appropriate adapter, the instruction set being executed by a control logic circuit [col. 4, lines 11-15; col. 9, lines 15-33].

Regarding claim 15, Edson further discloses frequency and/or time shifting the data before communication to the termination point [col. 13, lines 46-50, "utilizing a multiplexing/splitting technique through the ADSL modem 115". Note that also according to Microsoft Computer Dictionary, Fifth Edition, "To maintain the integrity of each signal on the channel, multiplexing can separate the signals

by time, space, or frequency” It is inherent for multiplexing to do frequency, or time, or space shifting.].

Regarding claim 16, Edson discloses an apparatus [FIG. 4] for the management of network topology and bandwidth comprising:

an input module, the input module having ports to receive various network couplers from various voice and non-voice data networks [col. 13, lines 24-63, RJ11 connectors and HPNA interface 63];

a control module, the control module having at least one instruction set for execution to determine the source and destination points of data which is communicated across the apparatus to and from the various voice and non-voice data networks, the determination of source and destination points being performed based on operational frequency ranges of the source and/or destination points [FIG.4 and col. 13 lines 24 through col. 14 line 38, controller 59 with associated program and data memory 60]; and

an output module, the output module cooperating with the control module to select an appropriate network adapter for use to communicate data to the destination point [FIG.4 and col. 13, lines 24-63, RJ11 connectors and HPNA interface 63].

Regarding claim 17, Edson further discloses a computing application interface, the computing application interface for use to communicate with at



least one computing application for use in configuring the apparatus [col. 11, lines 3-40].

Regarding claim 18, Edson further discloses wherein the computing application comprises a Web browser interface [col. 11, lines 30-37].

Regarding claim 19, Edson further discloses wherein the output module comprises a plurality of output ports for use when routing data [FIG.4 and col. 13, lines 24-63, RJ11 connectors and HPNA interface 63].

Regarding claim 20, Edson further discloses wherein the output ports comprise RJ-11 type ports [FIG. 4].

Regarding claim 21, Edson further discloses wherein the adapters comprise any of an HPNA adapter, coaxial network adapter, Ethernet network adapter, wireless network adapter, POTS adapters and a power line network adapter, the appropriate network adapter being selected based on the operational frequency of the source and destination points [col. 3, lines 23-25, adapters; col. 7 line 58 through col. 8 line 2, HPNA].

Regarding claim 22, Edson discloses a method for managing a network control device, the method comprising:

- accessing a graphical user interface having a topology management control and an application services gateway control [col. 7, lines 51-57];

- activating the topology management control to execute one or more instructions to configure a network management device [col. 11, lines 10-19,

- "The operating system and communication application are designed to

automatically detect a new device and interface when connected to the network 11 and to interact with such a new device interface to configure the gateway and the new interface to enable communications through the system 11”];

activating the application services gateway control to execute one or more instructions to configure the network management device to operate with services provided by a telephone services provider [col. 12, lines 58-67, IP telephone vendor and high-end telephone service imply configuration]; and routing one or more of voice information and non-voice information through the configured network management device to network adapters, wherein the routing is performed based on at least one frequency component of one or more voice information and non-voice information networks [col. 5 line 45 through col. 6 line 26, external communications].

Regarding claim 23, Edson further discloses wherein activating the topology management control to execute one or more instructions to configure a network management device comprises selecting configuration information including one or more of network addressing information, encryption information and network/bandwidth topology information [col. 11, lines 41-65, addressing information].

Regarding claim 24, Edson further discloses wherein activating the application services gateway control to execute one or more instructions to

configure the network management device comprises selecting services comprising one or more of video on demand, music on demand, remote security applications and video conferencing [col. 15, lines 26-29, "viewing of selected programming on demand"].

Regarding claim 25, Edson further discloses wherein accessing a graphical user interface comprises navigating controls of the network management device using a computer browser application [col. 7, lines 51-57; col. 11, lines 30-37].

Regarding claim 26, Edson further discloses wherein activating the topology management control further comprises manipulating controls for configuring one of a home network and a small office network [col. 11, lines 30-40, "to configure the system 11"].

Regarding claim 27, Edson further discloses wherein routing one or more of voice information and non-voice information through the configured network management device to network adapters comprises routing network data packets to one or more of an HPNA adapter, a coaxial network adapter, an Ethernet network adapter, a wireless network adapter, a POTS adapter, and a power line network adapter [col. 3, lines 23-25, adapters; col. 7 line 58 through col. 8 line 2, HPNA].

Regarding claim 28, Edson discloses a computer-readable medium having computer-executable instructions for performing a method for managing a network control device, the method comprising:

accessing a graphical user interface having a topology management control and an application services gateway control [col. 7, lines 51-57];

activating the topology management control to execute one or more instructions to configure a network management device [col. 11, lines 10-19, "The operating system and communication application are designed to automatically detect a new device and interface when connected to the network 11 and to interact with such a new device interface to configure the gateway and the new interface to enable communications through the system 11"];

activating the application services gateway control to execute one or more instructions to configure the network management device to operate with services provided by a telephone services provider [col. 12, lines 58-67, IP telephone vendor and high-end telephone service imply configuration]; and

routing one or more of voice information and non-voice information through the configured network management device to network adapters, wherein the routing is performed based on at least one frequency component of one or more voice information and non-voice information networks [col. 5 line 45 through col. 6 line 26, external communications].

Regarding claim 29, Edson further discloses wherein the step of activating the topology management control to execute one or more instructions to configure a network management device comprises selecting configuration information

including one or more of network addressing information, encryption information and network/bandwidth topology information [col. 11, lines 41-65, addressing information].

Regarding claim 30, Edson further discloses wherein the step of activating the application services gateway control to execute one or more instructions to configure the network management device comprises selecting services comprising one or more of video on demand, music on demand, remote security applications and video conferencing [col. 15, lines 26-29, "viewing of selected programming on demand"].

Regarding claim 31, Edson further discloses wherein the step of accessing a graphical user interface comprises navigating controls of the network management device using a computer browser application [col. 7, lines 51-57; col. 11, lines 30-37].

Regarding claim 32, Edson further discloses wherein the step of activating the topology management control further comprises manipulating controls for configuring one of a home network and a small office network [col. 11, lines 30-40, "to configure the system 11"].

Regarding claim 33, Edson further discloses wherein the step of routing one or more of voice information and non-voice information through the configured network management device to network adapters comprises routing network data packets to one or more of an HPNA adapter, a coaxial network adapter, an Ethernet network adapter, a wireless network adapter, a POTS adapter, and a

power line network adapter [col. 3, lines 23-25, adapters; col. 7 line 58 through col. 8 line 2, HPNA].

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).
7. Meenan et al., US Patent Number 7,315,886 B1, has taught a home-networking gateway providing a service to a device on a home network by transparently accessing a capability of a different device on the home network.
8. Humpleman et al., US Patent Number 7,039,858 B2, has taught a home entertainment system having a number of devices connected by a serial bus.

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially

teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Lai whose telephone number is (571) 270-3236. The examiner can normally be reached on M-F 8:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

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free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Lai  
08APR2008

/Yves Dalencourt/  
Primary Examiner, Art Unit 2157